

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
ECONOMICS DIVISION
Decartelization Branch

EX. 31-A

10 September 1947

MEMORANDUM

TO : Mr. Phillips Hawkins

SUBJECT : Explaining Decartelization to the Germans

1. You have asked for the comments of various members of the Branch on the memorandum on this subject from Mr. Baldwin to Mr. Hawkins dated 29 August 1947. Since my comments are somewhat lengthy, I have elected to put them in this separate memorandum. As you know, I have been rather active in this field for the past year and a half. I am keenly interested in it and I believe my experience in it has given me some appreciation of the problems involved.

2. First, I think we have to decide whether or not we want the support of the German public and press for our program. Assuming that there are many influential people in Germany who sincerely believe in the basic principles of decartelization and who might, therefore, be induced to get behind a decartelization program, the next question is, will they get behind our program? I think the answer to that depends upon how our program is conceived by us, presented to the German people and executed by us. Is it primarily a punitive program or primarily an antitrust program? If we conceive of our program as an honest, straight-forward, antitrust, antimonopoly program, I think we may fairly expect honest and sincere German decartelizers to get behind it. If, on the other hand, we conceive of our program as substantially one for the punishment of evil doers, then I do not believe that even sincere German decartelizers will ever get behind it. The average German, or for that matter the German intellectual, can no more conceive of Siemens & Halske as an evil doer than can the average American conceive of General Motors as an evil doer. Y They consider such corporations one of the sources of Germany's strength and greatness. Consequently, any program of punishment, as such, for such corporations is bound to appear to the Germans as an attempt to punish the German people. People will seldom sincerely cooperate in their own punishment. In any approach to the German people on the subject of decartelization, I think that we should honestly stress that we have no intent or desire to stonize

Y Please note that I am not discussing here the merits of the question of whether or not Siemens & Halske was an evil doer.

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(pulverize) German industry; that our purpose here is not to permit the rest of the nations of the world the benefits of large-scale production, but to punish Germany by denying those benefits to her, thus crippling the German economy and making the international markets safe for American big business interests.

3. To me, this issue is fundamental. For nearly a year and a half, I have been associated here with some of the finest and ablest men I have ever known, but I believe in our zeal to do a good job, we have mistakenly conceived of our function as a punitive one. ^{2/} We have sort of done a Dale Carnegie in reverse. At times we have seemed to have mastered the principles and to have put into practice all of the techniques of "How To Lose Friends And Alienate People." We have made enemies, both German and Allied, where we could and should have made friends. We have snarled and bared our teeth, but to date we haven't bitten anyone. I suggest that perhaps one reason we haven't bitten anyone is that we had "store-bought" teeth. Too often we have talked as if we were determined to stonize German industry. The kind of teeth it takes to do that kind of a bite we never had because they don't exist. I am not a Marxist, but I am enough of an economic determinist to believe that no power on earth can reduce a great industrial nation to stonistic production and keep it there. "Morgenthauism" and talk of a Carthaginian peace went out of fashion several years ago, for the good and sufficient reason that, on the industrial side at least, such a peace could last only so long as we stand ready, willing and able to hold a gun at the head of the conquered country. I, for one, do not believe that the people of the United States are going to be willing to do this for very many more years.

4. Just what is the difference between these two conceptions of our job? The matter of intent is vital here. As between decartelization and deconcentration, there is nothing punitive about the former. Here we propose to do nothing in Germany that we do not sincerely try to do in our own business community in the United States and I stand ready to defend it before any German or combination of Germans. But when you come to deconcentration, our program is likely to look to a German as nothing but an attempt

^{2/} I think such an approach to our problem was never realistic and that, if it was, it certainly is no longer realistic in the light of the present world situation. Since I first made the acquaintance of this Branch in March 1946, the international situation has changed rapidly. I believe it is safe to say that our relations with Russia are quite different and that our general approach to the German problem may be quite different today. Consequently, I feel that it is time for re-examination of the basic policies of the Branch and perhaps time for decision

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to punish the people of Germany. I, for one, believe that this it must not be, and that we should make every effort to show the people of Germany that this it is not. Here we must be careful. We must not sing one tune out of the left side of our mouths and another out of the right side. We must not say to the German people on one day, "Come and join us. Our program is purely beneficent and constructive. We are here to guide you toward setting up a fair, efficient and just economic system.", and on the next day, "We are here to punish you. The evil corporations which supplied Hitler's war machine and made his rearmament program possible, we are going to smash by 'liquidating' them, by wiping them off the face of the earth forever." There is a War Crimes group to punish war criminals, including industrialist war criminals, and aside from the I.G. Farben program which is of course punitive in concept, I think we should let other agencies deal out the punishment and confine our efforts to a straight-out antitrust, antimonopoly program. The actual results as far as any particular combine is concerned, may well be practically the same.

5. We can defend (and sell to the German people) a deconcentration program on antitrust, fair opportunity, free enterprise, fair trade grounds, if it actually has these ends as its honest aim. I suppose a punitive program would have wrecking as its aim, it would attempt to atomize German industry, it would seek to "liquidate," wipe off the face of the earth all prominent German corporations. That may be what we are here for, but I don't think so. Supposedly, we could impose on the Germans by force such a program, but we will never get the cooperation of the Germans (except the German communists) in it; that is, we can impose it until the American people find out about it. After that, I think we would be "finished" because I don't think public opinion in the United States would support such a program. So if we decide that we want the cooperation and support of the German public and press in our program, I, for one, believe that we should abandon the punitive approach if indeed we ever have embraced it. Let the War Crimes people, Denazification people, Demilitarization people, Reparations people, etc., deal out the punishment for Germany and let us confine ourselves to a straightforward antitrust, anti-monopoly program.

6. A deconcentration program in no way inspired by a desire to punish, but aimed solely at antitrust, antimonopoly ends, is immediately confronted with the question of principles. By what principles is such a program to be guided? On what principles do you decide how far the breakup of a particular combine should go? How small should the new pieces be? In a sense, it is the question, how deep should the knife cut in this operation? It goes without saying that, in general, the decentralization and deconcentration must go far enough to eliminate monopoly in the strict sense --

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in the sense of leaving one firm with the entire production of a product. Beyond this, in many cases, we will be confronted probably with the fact of duopoly -- two firms producing the entire output-- or with oligopoly --a small number of firms producing the entire output. Obviously, this will have to be a choice of evils. Duopoly is a lesser evil than monopoly, and oligopoly is a lesser evil than duopoly. The ideal of perfect competition, the situation where we would have hundreds of firms competing in the production of each product, is too much to hope for in most cases. It would be unrealistic to attempt to bring it about. Therefore, we will probably find ourselves dealing with oligopoly. But oligopoly, when policed by the vigorous enforcement of antitrust or anti-cartel laws as in the United States, yields pretty good results.

7. As a general principle, a German firm should have the right to expect to remain large enough to realize most of the economies of large-scale production in the technological sense if not in the business sense or managerial sense. That is to say, we should not attempt to atomize German industry. In deciding how far to go in reducing a big combine to a number of smaller firms, a general landmark might be the point where technological efficiency begins to suffer, with the burden of proof on the Germans. It is not the largest firm but the optimum-size firm which is technologically most efficient. That point of optimum size varies from industry to industry and as between plants within any given industry. Generally speaking, in the steel industry, the optimum-size unit is probably quite large, while in the textile industry the optimum size is probably relatively small.

8. If we let the knife sink to the point where the Germans concerned can make a convincing case that technological efficiency will undoubtedly suffer if the breakup goes further, we will probably have a chieftain about all that can be reasonably expected, and, as a general proposition, the breakup should probably go that far because we have every right to suspect that where combinations continue to grow past the point where technological efficiencies have been fully realized, their purpose is no longer to achieve economic efficiency but rather business efficiency. That is to say, their purpose when they go beyond that point is probably to reduce competition and to promote at least a quasi-monopoly control of the market. I am well aware of the fact that any deconcentration of a large corporation means punishment for the people and individuals being deconcentrated. I am not talking about that. I am talking here about motive-- the motives of this Branch. When we deconcentrate a corporation, the people concerned undoubtedly think they are being punished. But that need not be the reason why this Branch prescribes that particular pattern of deconcentration for that combine. Our reason and our motives for prescribing such a pattern of deconcentration must be primarily the antitrust, antimonopoly, free enterprise, fair opportunity motives if we want responsible Germans to do more than merely give lip service to our program, pending the time when they can successfully sabotage it. Incidentally, I think

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a decartelization program so motivated may win the respect and cooperation of many of our American and Allied colleagues in Germany who have been heretofore, to say the least, cool toward our efforts.

9. I believe that I can discern a distinct trend in the Branch in the direction of my position on these matters, a position which I have maintained from the beginning. In the year and a half I have been with the Branch, I believe that I have seen a steady trend toward moderation in our thinking, from the early drafts of the various decartelization laws of early 1946 to the distinctly moderate (and may I say in this respect sensible) bilateral law promulgated on 12 February 1947. Aside from the preamble to Law 56, I find little in it to suggest that its motives are punitive and much in it to suggest that its motives ~~are those of a straightforward antitrust, antimonopoly program.~~ are those of a straightforward antitrust, antimonopoly program. In summing up, let me enumerate. I think this Branch has to do the following:

a. Decide whether its program is fundamentally a punitive program or an antitrust program.

b. If it is the latter, decide whether or not it wants to go to the effort and expense of trying to win popular German support for the program. Whereas if it is the former, waste no more time or money trying to win the support of the German people for it and, incidentally, prepare for an early conclusion of our efforts here, for want of popular support from the people of the United States for a punitive program.

c. If we decide that our program is an antitrust program, with any punitive aspects being only incidental, I think we should shout it from the housetops and see to it that everything issued from this Branch is couched in appropriate language, that every suggestion of punishment is eliminated from such utterances.

d. If ours is an antitrust program, I think we should lose no opportunity to go before the German people with a straightforward elaboration of our motives, our program and how we propose to implement it.

CC: Mr. Collison
Mr. Avery
Mr. Baldwin
Mr. Barron
Mr. Coleman

CHARLES A. DILLEY
Assistant Chief of Branch
for Decartelization